

## REMARKS

Claims 21, 22, 23, 25, 28, 33, and 81-105 are pending. Claims 12-14 have been cancelled as being drawn to a nonelected invention. Claims 20, 24, 26-27, 29-32, and 34-78 have also been cancelled. Claims 21, 23, 25, 28, and 33 have been amended. New claims 81-105 have been added. The amendment to claim 21 is supported by claims 21, 32, 42, 42, 62, and 72 as originally filed. The amendment to claim 25 is supported by claims 25, 35, 45, 55, 65, and 75 as originally filed. The amendment to claims 21 and 25 ("of 15-21 amino acids") is supported by disclosure at page 9, lines 11-13 of the specification. New claims 81-92 are supported by disclosure at page 22, Table 1 of the specification. New claims 93-104 are supported by disclosure at page 22, Table 1 and page 10, line 30 through page 11, line 4 of the specification. New claim 105 is supported by disclosure at page 3, lines 22-26 of the specification.

No new matter has been added by this amendment.

### Obviousness-Type Double Patenting

Claims 21, 22, 25, 32, 35, 42, 45, 52, 55, 62, 65, 72, and 75 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-15 of copending Application Number 09/562,328 ("the '328 application"). Claims 32, 35, 42, 45, 52, 55, 62, 65, 72, and 75 have been cancelled.

Claim 21 of the instant application is drawn to a composition comprising at least one peptide comprising the amino acid sequence of SEQ ID NO: 1, 2, 10, 11, 12, 13, 14, 15, 16, 17, 18, or 19. Claim 22 is drawn to a composition comprising the amino acid sequence of SEQ ID NO: 3. Claim 25 of the instant application is drawn to a composition comprising at least two peptides covalently attached to a peptidyl core matrix. In the '328 application as filed, claims

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12-15 are drawn to a composition comprising a conjugate of a glucan, a T cell-dependent antigen, and one or more additional moieties, wherein the additional moieties are selected from SEQ ID NOs: 1-42. The Examiner states that although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims are drawn to a composition comprising at least one peptide comprising SEQ ID NO: 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 17, 18, or 19, which are identical to SEQ ID NO: 20, 27, 22, 23, 24, 25, 27, 29, 29, 30, 31, 32, or 37, respectively, of copending Application No. 09/562,328. *See* Paper No. 13 at page 8, lines 6-16.

The claims of the '328 application were subject to restriction, and claims 12-15 of the '328 application have been withdrawn from prosecution as being drawn to a nonelected invention. Thus, Applicants request that this provisional rejection be withdrawn.

35 U.S.C. §112, second paragraph

Claims 20, 23, 24, 26-28, 31, 33, 34, 36-38, 41, 43, 44, 46-48, 51, 53, 54, 56-58, 61, 63, 64, 66-68, 71, 73, 74, and 76-78 were rejected for indefiniteness for the positions of the claimed amino acids. On page 4, lines 10-13, of Paper No. 13, the Examiner stated:

The positions of the claimed amino acids are indefinite. The specification does not teach the complete sequence or starting points of any of the whole glucosyltransferases. Therefore, the positions of the claimed amino acids are indefinite. It is unclear what sequences are being utilized for the whole glucosyltransferases.

Claim 23 has been amended to depend from amended claim 21, which recites SEQ ID NOs. Claims 28 and 33 have been amended to depend from amended claim 25, which also recites SEQ ID NOs. Thus, claims 23, 28, and 33 are clear and definite. Likewise, new claims 81-106 are clear and definite because they recite SEQ ID NOs. Claims 20, 24, 26-27, 31, 34, 36-

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38, 41, 43, 44, 46-48, 51, 53, 54, 56-58, 61, 63, 64, 66-68, 71, 73, 74, and 76-78 have been cancelled. Therefore, this rejection should be withdrawn.

35 U.S.C. §112, First Paragraph

Claims 26, 27, 36, 37, 46, 47, 56, 57, 66, 67, 76, and 77 were rejected for overbreadth and lack of enablement. The Examiner maintains that while the specification, is enabling for immunogenic compositions consisting of EAW (SEQ ID NO: 1), HDS (SEQ ID NO: 2), MAC (SEQ ID NO: 4), or GTFsm, it does not reasonably provide enablement for constructs further comprising portions of pathogens. The Examiner states that although the state of the prior art concerning covalently linking peptides is well known, the instant specification does not provide sufficient direction or guidance concerning which portions of a pathogen are to be used or why.

Claims 26, 27, 36, 37, 46, 47, 56, 57, 66, 67, 76, and 77 have been cancelled. Therefore, this rejection is moot and should be withdrawn.

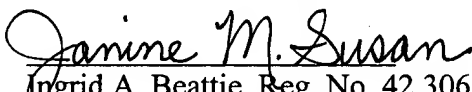
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### CONCLUSION

Applicants submit that the pending claims are in condition for allowance. If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311 (Reference No. 25669-013).

Respectfully submitted,



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